

T



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/641,600	08/18/2000	Scott R. Watterson	13914.579.2	6657

22913 7590 02/15/2005

WORKMAN NYDEGGER  
(F/K/A WORKMAN NYDEGGER & SEELEY)  
60 EAST SOUTH TEMPLE  
1000 EAGLE GATE TOWER  
SALT LAKE CITY, UT 84111

EXAMINER

RICHMAN, GLENN E

ART UNIT	PAPER NUMBER
----------	--------------

3764

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/641,600	WATTERSON ET AL.	
	Examiner	Art Unit	
	Glenn Richman	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13, 20-25 and 42-50 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-13, 20-25 and 42-50 is/are rejected.
- 7) ☒ Claim(s) 4 and 5 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>111/04</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-3, 6-13, 20-25, and 42-50 are rejected under 35 U.S.C. 102(e) as being anticipated by Girone et al.

Girone et al disclose a user module adapted to control one or more operating parameter of an exercise device (col. 4, lines 23-33), the user module being adapted to receive packetized programming including at least one control signal (col. 4, lines 23-33; a trainer module remote from and communicating with the user module that a trainer at said trainer module may visually and audibly communicate with a user at the user module (col. 14, lines 41-55), the trainer module being capable of generating the

Art Unit: 3764

packetized programming representative of the changes to be made to the one or more operating program of the exercise device (col. 4, lines 23-33), and (c) a communication module in communication with the user module and the trainer module, the communication module being configured to deliver the packetized programming including the at least one control signal to the user module (col. 4, lines 23-33)

As for claims 2, 3, 6-13 Girone et al disclose the communication module is in real time communication with the user module and the training module such that the communication module delivers programming to the user module in real time (col. 4, lines 23-33), a user interface module adapted to gather one or more user inputs from the user (abstract), an exercise module in communication with the user interface and configured to enable a user to exercise (abstract), an interface module, in communication with the exercise module, configured to receive the packetized programming including one or more control signals and deliver the same to the exercise module (col. 4, lines 23-33), a data storage module configured to store the programming and the one or more control signals received from the communication module (claim 7), a user interface module configured to communicate with the user module; (b) a control signal generation module configured to generate the one or more control signals (col. 4, lines 15 – et seq.), and (c) a control module configured to synchronize the one or more control signals with the programming (col. 4, lines 15 – et seq.) the control module obtains the programming from the user module (abstract), the control module obtains the programming from a data storage module (abstract), the trainer module comprises a

Art Unit: 3764

control signal generation module configured to generate the one or more control signals (abstract), the communication module comprises a web site (col. 14, lines 30-40).

As for claims 20-25, Girone et al disclose a first user module adapted to control one or more operating parameters of an exercise device (col. 4, lines 23-33), the first user module generating a first signal, a second user module remote from and communicating with the first user module so that a user of the first user module may both visually and audibly communicate with a user of the second modules said second user module being adapted to control one or more operating parameters of an exercise device (col. 14, lines 41-55), a communication module, in communication with the first user module and the second user module, the communication module being configured to deliver said first signal to said second user module (col. 4, lines 33 – et seq).

As for claims 42-50, Girone et al disclose (a) a first module associated with an exercise device having a first video camera and a first microphone. said first module being adapted to control one or more operating parameters of said exercise device and transmitting first video data received from said first video camera and first audio data received from said first microphone (col. 14, lines 30-55), a second module associated with another exercise device having a second video camera and a second microphone. said second module being remote from and communication with said first module. said second user module being adapted to transmit second video data received from said second video camera and second audio data received from second first microphone (col. 14, lines 30-55), and (c) a communication module in communication with said first module and said second modules the communication module being confirmed to deliver

Art Unit: 3764

said first video data and said first audio data to said second module and to deliver said second video data and said second audio data to said first module so that a user at the first module may visually and audibly communicate with another user at the second module (col. 14, lines 30-55), communication module controls deliver of said first video data and said second video data to both said first module and said second module in real-time (col. 14, lines 30-55), communication module stores said first video data and said first audio data and delivers said first video data and said first audio data to said second module upon said second module requesting the same from said communication module (col. 14, lines 30-55), said communication system delivers a control signal to said second modules said control signal representative of a program performed by said first module which said second module is also to perform (col. 14, lines 30-55).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Girone et al in view of Clem

Girone et al do not specify the web interactions of claims 14-19.

Clem discloses the various web interactions of claims 14-19.

Art Unit: 3764

It would have been obvious to use the web interactions of Clem with Girone et al's device, as they are well known in the art of using the web, and as Girone et al also disclose using the internet.


***Allowable Subject Matter***

Claims 4, 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 703 308-3170. The examiner can normally be reached on Mon-Thurs.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Glenn Richman  
Primary Examiner  
Art Unit 3764